

**REMARKS**

Claims 33-38 are pending. Reconsideration and allowance based on the following comments are respectfully requested.

Claims 33-38 stand rejected under 35 U.S.C. § 102(e) in view of Esmailzadeh et al. (U.S. Patent No. 1,163,533). This rejection is respectfully traversed.

In the embodiments of the present invention as recited in the claims, the transmitter side can correspond to the bay station while the receiver corresponds to a mobile station. As discussed with regards to embodiment 5 of the application, the mobile station detects the reception level based on the preamble contained in the received signal. This operation of the mobile station corresponds to the receiver of embodiment 1 as discussed on page 18 of the specification. Since the mobile station receives the signal from the bay station and a reception level at the bay station is detected by use of the preamble as discussed in embodiment 5, it is apparent that the bay station adds the preamble to the signal and thus the bay station as discussed in embodiment 5 on page 23 of the specification corresponds to the transmitter for the embodiment 1. Therefore, the transmitter and receiver recited in the claims respectfully correspond to a bay station and a mobile station.

In contrast, in the teachings Esmailzadeh et al. the preamble is transmitted from the mobile station and received by the bay station. *See column 2, lines 41-58.* This is further expressed by using a match filter in the bay station to despread the preamble of the received signal from the mobile station.

Accordingly, Esmailzadeh et al. teaches that the mobile station transmits the signal containing the preamble and the bay station receives the signal and processes the preamble. In

contrast, in the claimed invention the bay station is configured to transmit the signal containing the preamble and the mobile station is configured to receive the signal. Thus, the claimed invention provides a distinct difference from the teachings of Esmailzadeh et al.

Further, the claimed invention is different from Esmailzadeh et al. in that the peak value of the preamble for the entire period of the preamble is used. Esmailzadeh et al. discloses that the preamble is processed through the match filter, the accumulator and the peak detection unit, and the peak detection unit calculates the peak value. *See column 2, line 46 to column 3, line 7.* As disclosed in column 3, lines 11-13 “each peak...is used to set the receivers rate parameters,” in order to set the rate parameters, peak values are especially relating to paths between the mobile station and the bay station are used. Thus, the “preamble” of Esmailzadeh et al. is used for detecting peak(s) which exceeds the threshold among the peak values corresponding to the paths.

In contrast, as shown in Figures 2a and 2b of the present application, the AGC is adjusted by using the entire period of the preamble and the AGC output is adjusted through a reference value or its near value. Accordingly, “reception power intensity” as recited in the claims is not the peak value of the received signal, but is the power strength for the entire period of the preamble, i.e., the summation of the power of the past. Therefore, the purpose for the use of the “preamble” as recited in the Applicants’ independent claims is different from Esmailzadeh et al. preamble for detecting the peak value of each path.

Applicants respectfully submit that the claimed features as understood from the specification are different from the teachings of Esmailzadeh et al. Accordingly, as noted above,

Esmailzadeh et al. fails to teach each certain feature of Applicants' independent claims. Therefore, reconsideration and withdrawal of the rejections are respectfully requested.

**Conclusion**

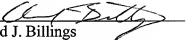
For at least the reasons above, it is respectfully submitted that claims 33-38 are distinguished from the recited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings, Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

Dated: May 30, 2008

Respectfully submitted,

By   
Chad J. Billings  
Registration No.: 48,917  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicants